

EXHIBIT 15

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Clerk of the Board
County of San Diego
County Administration Center, Room 402
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Re: Proposed General Plan Amendments (Harmony Grove Village South, Lilac Hills Ranch, Newland Sierra, Otay 250, Otay Ranch Village 13, Otay Ranch Village 14, Warner Ranch, Valiano, Property Specific Requests)

Dear Board of Supervisors:

This letter, submitted on behalf of the Endangered Habitats League and the Center for Biological Diversity, provides comments on nine major residential projects slated to come before the Board in the coming year that, if approved, would utterly transform rural San Diego County and represent a wholesale rejection of the guiding principles of the County's General Plan.

The projects would add nearly 15,000 new residential units to the County's backcountry—triple the maximum number of units allowed under the current General Plan—yet not one of those new units would be affordable. As documented in prior letters, each project individually would violate numerous General Plan policies designed to prevent haphazard development, contain sprawl, reduce traffic, provide affordable housing, and protect the environment. But when combined, the projects make a mockery of the General Plan, and indeed the very notion of land use planning.

Through piecemealed approvals, the projects would result an unprecedented level of sprawl that is irreconcilable with the fundamental policies of the General Plan, and would sacrifice the County's natural heritage for the sole purpose of building luxury homes. This transformation of rural San Diego is documented in a series of maps attached as Exhibit 1 (countywide map showing major residential projects requiring



general plan amendments), Exhibit 2 (project specific maps showing existing backcountry), and Exhibit 3 (project specific maps showing modifications to General Plan regional land use categories).

To date, the County's environmental review documents for the projects have failed to adequately consider the projects' combined effects, in terms of either consistency with the policies of the General Plan or impacts on the environment. This letter addresses those combined effects and we ask that it be included in the record of proceedings for each of the following projects:

- Harmony Grove Village South
- Lilac Hills Ranch
- Newland Sierra
- Otay 250
- Otay Ranch Village 13
- Otay Ranch Village 14 and Planning Areas 16 & 19 ("Otay Village 14")
- Warner Ranch
- Valiano
- Property Specific Requests ("PSRs")

I. APPROVAL OF THE PROJECTS WOULD BE FATALY INCONSISTENT WITH THE GENERAL PLAN

The County is in the verge of a fundamental transformation of the rural and semi-rural lands that define the unincorporated backcountry. Seven of the projects the County is considering approving in the remaining months of 2018 would add nearly 10,000 units beyond the maximum number of units currently allowed under the General Plan.¹ Each one of those projects conflicts with the County General Plan, which was adopted in 2011 to "protect the County's unique and diverse natural resources and maintain the character

¹ The other two projects—Otay Ranch Village 13 and Otay Village 14—do not require General Plan amendments to increase density, but these two massive residential projects greatly exacerbate the impacts of adding luxury residential development into undeveloped areas in the backcountry, as discussed in Section II, *supra*.

of its rural and semi-rural communities” (General Plan at 1-2), and which requires all large-scale residential projects requiring a general plan amendment to provide an affordable housing component. In combination, the approval of some or all of the projects would amount to nothing short of the scrapping of the current general plan and replacing it with an entirely new one—one that encourages rather than discourages growth in semi-rural and rural areas, and that abandons affordable housing in favor of promoting luxury residences. But because the County, to maintain the pretense that it still cares about its anti-sprawl and affordable housing policies, appears unwilling to repeal them, the general plan amendments for the proposed projects, if approved, would result in a general plan whose land use maps cannot be reconciled with its land use and housing policies.

This result would violate California law. A fundamental tenant of state Planning and Zoning law is that a general plan must be internally or “horizontally” consistent. In other words, its elements must “comprise an integrated, internally consistent and compatible statement of policies for the adopting agency.” Gov. Code § 65300.5; *Sierra Club v. Kern County Board of Supervisors* (1981) 126 Cal.App.3d 698, 704. General plan consistency is “the linchpin of California’s land use and development laws; it is the principle which infuses the concept of planned growth with the force of law.” *deBottari v. Norco City Council* (1985) 171 Cal.App.3d 1204, 1213. The County cannot adopt these projects without substantially revising its General Plan to acknowledge to the public its abandonment of the community development model and other anti-sprawl policies.

A. The County is Poised to Approve Projects Adding Nearly 10,000 Residential Units to the General Plan, Predominantly in Rural and Semi-Rural Areas.

The Board is set to consider seven projects in 2018 that require major general plan amendments to increase residential density, propose residential units predominantly in the Semi-Rural or Rural regional categories at densities that equal or dramatically exceed maximum densities under existing general plan designations, and fail to include any affordable housing component. These projects include:

- **Harmony Grove Village South:** The project, slated for Board consideration in July 2018, includes a general plan amendment to redesignate the property from Semi-Rural Residential 0.5 to Village Residential 10.9 and Neighborhood Commercial, increasing the number of allowed residential units from 220 units on 111 acres to 453 units and 5,000 square feet of commercial and civic uses. None of the units are designated as affordable. The property is currently within the Semi-Rural regional category, but would be redesignated to the Village regional category.

- **Valiano:** The project, slated for Board consideration in July 2018, includes a general plan amendment to redesignate the property from Semi-Rural Residential 1 and 2 to Semi-Rural Residential 0.5 and remove a portion of the site from the Elfin Forest-Harmony Grove subarea plan, thereby increasing the number of allowed residential units from 118 units on 239 acres to 326 units. None of the units are designated as affordable. The property is within the Semi-Rural regional category.
- **Otay 250:** The project, slated for Board consideration in July 2018, includes a general plan amendment to remove the existing technology park designation and allow development of up to 3,158 residential units, 78,000 square feet of commercial, and 765,000 square feet of office on 253 acres. None of the units are designated as affordable. The property is within the Village regional category.
- **Newland Sierra:** The project, slated for Board consideration in September 2018, includes a general plan amendment to change Semi-Rural 10 and Rural Land 20 designations to Village Core Mixed Use and Semi-Rural 1, thereby increasing the number of allowed residential units from 100 units on 1,985 acres to 2,135 units. The amendments also remove designations that would allow 1,000,000 square feet of office and reduce the amount of allowed commercial from 90,000 square feet to 81,000 square feet. None of the residential units are designated as affordable. The vast majority of the property is within the Rural Lands regional category, but significant portions would be redesignated to the Semi-Rural regional category.
- **Property Specific Requests GPA:** The project, slated for Board consideration in September 2018, includes revisions to land use designations for 21 separate areas (encompassing 882 parcels and 9,332 acres) in order to increase residential density, as well as other changes to a former specific plan area and to certain lot size requirements. In total, the project would add 1,826 potential dwelling units, none of which are designated as affordable. Many of the parcels are currently within the Semi-Rural or Rural regional category.
- **Warner Ranch:** The project, slated for Board consideration in October 2018, includes a general plan amendment to redesignate a portion of the site from Rural-Lands 40 to Village Residential 2.9, increasing the number of allowed residential units from 12 units on 513 acres to 780 units. None of the residential units are designated as affordable. The property is

currently within the Rural regional category, but would be redesignated to the Village regional category.

- **Lilac Hills Ranch:** The project, slated for Board consideration in October 2018, includes a general plan amendment to redesignate the site from Semi-Rural 10 and Semi-Rural 4 to Village Residential 2.9 and Village Core, increasing the number of allowed residential units from 110 units on 608 acres to 1,746 units and 90,000 square feet of commercial and office space. None of the residential units are designated as affordable. The property is currently within the Semi-Rural regional category, but would be redesignated to the Village regional category.

These approvals are on top of other projects recently approved by the County that amended the General Plan to increase residential development by almost 2,000 units, including:

- **Sweetwater Place:** The project, approved in December 2017, included a general plan amendment to change the existing land use designation from RL-80 to VR-73 on 20 acres, increasing the number of allowed units from 1 residential dwelling to 122 residential dwellings. None of the units are designated as affordable. The property is within the Village regional category.
- **Sweetwater Vistas:** The project, approved in December 2017, included a general plan amendment to remove the existing resort and office land use designations and allow development of 218 residential units on 52 acres. None of the units are designated as affordable. The property is within the Village regional category.
- **Forest Conservation Initiative (“FCI”) Amendment:** This project, approved in December, 2016, updated the 2011 General Plan to apply new land-use designations to county lands previously covered by the Forest Conservation Initiative. Whereas the FCI, which expired in 2010, had imposed a 40-acre minimum lot size on private landholdings within the Forest, the FCI Amendment assigned new development densities to these lands, increasing the total allowable number of units by 1,449, and made further density changes to roughly 400 acres adjacent to former FCI lands.

In addition, the City of Escondido is currently considering a project that would annex and dramatically up-designate land in the Rural regional category:

- **Safari Highlands:** The project, under review by the City of Escondido, would annex unincorporated county lands to increase the number of allowed residential units from 27 units on 1,098 acres to 550 units. None of the residential units are designated as affordable. The property is within the Rural regional category, but if annexed, would no longer be within the unincorporated area.

In total, these eleven projects would add over 12,000 residential units to the County's backcountry, none of which were envisioned in the County's comprehensive General Plan. This massive influx of housing would fundamentally alter the County's wildlands, severely impact nearby communities, and transform the character of the County as a whole.

B. The Proposed General Plan Amendments Cannot Be Reconciled with the General Plan's Community Development Model and Related Policies.

To understand why these projects would have such a profound impact on the future viability of the County's General Plan, it is important to start with the overall vision and strategy for the County's central land use document.

In 2011, after conducting hundreds of meetings and engaging stakeholders from across the County (General Plan at 1-9 to 1-11), the Board of Supervisors adopted the current General Plan. This represented the first update since the Plan's initial adoption in 1978. The document that emerged from this effort took a balanced approach, committing in the first pages to an "environmentally sustainable approach to planning that balances the need for adequate infrastructure, housing, and economic vitality, while maintaining and preserving each unique community with the County, agricultural areas, and extensive open space." General Plan at 1-2.

The County's primary means of achieving this balance is the General Plan's adoption of a "Community Development Model." The General Plan explains:

"[I]n the County's Community Development Model, the central core is surrounded by areas of lesser intensity including "Semi-Rural" and "Rural Lands." . . . The "Village" would contain the densest neighborhoods and a broad range of commercial and civic uses that are supported by a dense network of local roads containing bicycle lanes and walkways linking the neighborhoods with parks, schools, and public areas. Outside of the "Village," "Semi-Rural" areas would contain low-density residential neighborhoods, small-scale agricultural operations, and rural commercial

businesses. In turn, these would be surrounded by “Rural Lands” characterized by very low density residential areas that contain open space, habitat, recreation, agriculture, and other uses associated with rural areas.

General Plan at 2-8.

In other words, the General Plan attempts to shift away from a land use development model that encouraged dispersal of development across the County, and instead seeks to focus new development into existing villages. *Id.* at 2-7 to 2-9; *see also* General Plan at 2-3 (“Our villages are intended to grow in compact land development patterns to minimize intrusion into agricultural lands and open spaces; the distance that we travel to our local services and businesses; and the need for extensive infrastructure and services; while also inducing community association, activity, and walking.”); *id.* at 3-2 (“Focusing development in and around existing unincorporated communities allows the County to maximize existing infrastructure, provides for efficient service delivery, and strengthens town center areas while preserving the landscape that helps define the unique character of the unincorporated County.”).

The Community Development Model undergirds many of the County’s identified “Guiding Principles.” For example, under Guiding Principle Number 1, the County commits to “support[ing] a reasonable share of projected regional population growth.” The General Plan notes that this principle will be implemented by “planning and facilitating in and adjacent to existing and planned villages.”

Guiding Principle Number 2 reiterates this point, noting that the County commits to “promot[ing] health and sustainability by locating new growth near existing and planned infrastructure, services, and jobs in a compact pattern of development.” The discussion notes the adverse impacts caused by haphazard, sprawl development, including greater costs for infrastructure development, greater stresses on community services, increased travel time, increased gasoline consumption, air pollution, GHG emissions, and loss of habitat. To reduce these impacts, the Plan commits to “more compact development . . . within existing and planned communities.”

Compact development focused around existing and planned communities, and retention of semi-rural and rural lands also supports Guiding Principles Number 5 (“Ensure that development accounts for physical constraints and the natural hazards of the land”) and Guiding Principles Number 7 (“Maintain environmentally sustainable communities and reduce greenhouse gas emissions that contribute to climate change”). By concentrating new development in existing communities, development is correspondingly limited in the high-risk urban-wildland interface. And compact

communities support “reduced automobile use and increased use of public transit, walking, and bicycling.”

To implement the Community Development Model, the General Plan places all unincorporated land into one of three regional categories: Village, Semi-Rural, and Rural. General Plan at 3-6. These designations were based on an analysis of development constraints, including road access, water/sewer, habitat, and hazards. General Plan at 3-4. The Plan then permits Village lands to be developed at higher residential densities (i.e., more than 2 dwelling unit per acres), while significantly restricting residential development on Semi-Rural and Rural lands. *See* General Plan Table LU-1 (tying regional categories to land use designations and maximum densities). This scheme is intended to ensure future development patterns of compact development patterns in the villages, surrounded by much lower density rural development. The Countywide Regional Categories Map (Figure LU-1) graphically illustrates this vision, with islands of compact development surrounded by a semi-rural and rural backcountry.

Yet, the vast majority of the projects to be considered by the Board require a redesignation of the land from either Rural or Semi-Rural to Village. In other words, the Board is currently considering dense residential projects across the areas that the General Plan specifically designated for protection from such development, even though the development constraints that led to the initial designations *have not changed*. The Community Development Model will not work, and the Guiding Principles cannot be met, if the County allows such large-scale projects outside of designated villages.

Even more disturbing, these projects do not represent incremental expansion of existing villages to accommodate needed growth. Indeed, as shown in Exhibit 3, these projects are often located far from existing villages. *E.g.*, Newland Sierra,² Warner Ranch, Lilac Hills Ranch, and Safari Highlands. And none are designed to create the type of vibrant mixed-use development that would actually keep future residents on site. There can be no question that the future residents of these projects will need to get in their cars and drive long distances to their jobs, schools, and other amenities.

By approving these projects, the County will fundamentally undermine the internal consistency of its foundational document. A General Plan that professes commitment to the Community Development Model and the Guiding Principles discussed above cannot simultaneously contain significant and pervasive amendments to the regional categories that permit Village designations and densities at far-flung locations.

² The existing “village” designation in the southeast corner of the site is undeveloped.

The County's General Plan also contains numerous individual policies intended to implement the Plan's overall vision and Guiding Principles. As described below, approval of the projects would be inconsistent with many of these specific policies.

1. LU-1.1: Assigning Land Use Designations.

The Land Use Element's first, and indeed, overarching, goal is to "sustain the intent and integrity of the Community Development Model and the boundaries between Regional Categories." General Plan 3-23 (Goal LU-1). This make sense, as the Community Development Model, and its separation of village and semi-rural and rural lands, is the primary mechanism relied on by the County to meet its overall vision and Guiding Principles. As such, Policy LU-1.1 directs the County to "[a]ssign land use designations on the Land Use Map in accordance with the Community Development model and boundaries established by the Regional Categories Map.

As discussed above, most of the proposed projects do not meet the community development model. Rather than concentrating development in and around existing villages, they add high-density development in areas designated for semi-rural and rural use. The project developers' proposed solution—simply amending the Regional Categories Map to depict the project as new "villages"—turns the purpose of the Regional Categories Map on its head. The County, through years of extensive planning, determined the location of existing and planned villages and how such communities should grow to accommodate growth. The General Plan never intended that its protection of rural lands from new development could be subverted simply by calling that development a new "village." The Community Development Model defines a village as a compact existing or planned neighborhood having a "broad range of commercial and civic uses," not sprawling new luxury home developments devoid of the meaningful commercial, retail, and job-producing cores necessary to decrease driving times and create vibrant communities.

2. LU-1.2 Leapfrog Development and LU-1.4 Village Expansion

In order to enforce the Community Development Model, the Land Use Element also includes Policy LU-1.2, which strictly limits the approval of leapfrog developments (i.e., Village densities located away from established Villages) and village expansions (i.e., new Village designations adjacent to existing villages). This policy makes sense: if the County were permitted to approve higher density developments outside of the designated cores, the Community Development Model would fail to live up to its promises and the County would devolve back to haphazard, sprawl development. Leapfrog development is in no way consistent with the compact, village core-focused

development enshrined in the Community Development Model. And village expansions only make sense if the adjacent land can support higher density.

Yet leapfrog development is exactly what the County is proposing to do with these projects, most of which are not adjacent to or within existing village designations. While the Policy LU-1.2 does provide an exception—where the development creates a “new village” “designed to meet the LEED-Neighborhood Development Certification or an equivalent”—none of the projects live up to that requirement. This limited exception was intended to ensure that if a new village were developed, it would perform at the same or better level as existing villages, by reducing vehicle miles traveled and air pollution, by creating community centers, and by reducing impacts on agricultural lands and habitats. But none of the proposed projects contain the amount of mixed use development and employment opportunities required to achieve these goals. For instance, the Lilac Hills Ranch project includes “neighborhood centers” that amount to little more than convenience store-sized retail facilities. These are not the types of vibrant village cores that will encourage people to walk or otherwise forego their cars.

Harmony Grove Village South, Valiano, and Newland Sierra are closer to existing village designations, but none of these sites are appropriate for village expansions. For instance, neither Harmony Grove Village South or Valiano are “contiguous” with existing village designations. And none of these projects are compatible with existing constraints, especially given the high fire risk at all three sites.

3. LU-1.3 Development Patterns.

Policy LU-1.3 supports this goal in a different way, by requiring land use designations to “preserve surrounding rural lands.” Yet, as shown in Exhibits 2 and 3, the proposed projects are all located on the rural lands that are intended to be protected from development. A proposed project cannot both be located on rural lands and preserve rural lands at the same time.

4. LU-2.5 Greenbelts to Define Communities and LU-10.3 Village Boundaries.

Central to the Community Development Model is the idea that villages serve as nodes or hubs of development, while decreasing density rural lands surround the villages. To delineate the differences between these two areas, Policy LU-2.5 requires the County to “maintain greenbelts between communities to reinforce the identity of individual communities.” Likewise, Policy LU-10.3 requires the County to “[u]se Semi-Rural and Rural land use designations to define the boundaries between Villages and Rural Land Use designations to serve as buffers between communities.”

However, rather than maintaining the County's semi-rural and rural lands as greenbelts or buffers, many of the projects serve to blur the distinction between existing communities. For example, the Harmony Grove Village South Project, while close to an existing village, is outside the village boundary and on the opposite side of the greenbelt from the existing village. So instead of maintaining the existing greenbelt well established in the General Plan, the project would effectively eradicate it. Likewise, the site for Valiano is part of the northern buffer of Harmony Grove. If built, the project would preclude adequate buffering between communities.

5. LU-5.1 Reduction of Vehicle Trips within Communities and LU-5.3 Rural Land Preservation.

One of the key benefits of the Community Development Model is its ability to reduce climate change impacts. *See, e.g.,* General Plan at 2-9 (“Developing the County’s communities more compactly meets critical objectives with the mandates of AB 32, the *California Global Warming Solutions Act of 2006*.”). Thus, the Land Use Element requires increasing residential densities within Villages to support multi-modal transportation (Policy LU-5.1) and preserving existing open space and rural areas in rural and semi-rural areas (Policy LU-5.3). Yet the proposed projects take the County in the opposite direction, by funneling growth into suburban development that destroys existing open space and will fail to support multi-modal transportation.

6. LU-6.10 Protection from Hazards, LU-6.11 Protection from Wildfires and Unmitigable Hazards and S-1.1 Minimize Exposure to Hazards

As noted above, the Semi-Rural and Rural regional categories were assigned to areas that face significant development constraints, including hazards and accessibility to emergency services (General Plan at 3-4 to 3-5). The Land Use Element reinforces these assignments, requiring the County to assign land uses and densities—and to locate development—to protect against the risks of natural and man-induced hazards, including extreme, very high, and high fire threat areas. *See* General Plan Policies LU.6-10 and LU.6-11. Likewise, the Safety Element requires the County to minimize the population exposed to hazards by “assigning land use designations and density allowances that reflect site specific constraints and hazards.” Policy S.1-1.

Yet, as discussed below in section II (C) (Wildfire-Related Risks) many of the proposed projects would introduce significant residential density areas into these hazardous areas, rather than concentrating development in the village areas where residents are more easily protected. For example, the Lilac Hills Ranch project is very close to the 2017 Lilac Fire, which burned over 4,100 acres, destroyed 157 structures, and

caused over \$5 million in firefighting costs and property damage. Likewise, the Newlands Sierra Project, Warner Ranch, PSRs, Otay Ranch Village 13, and Otay Ranch Village 14 propose to bring thousands of new residents into sites with steep topography and High or Very High Fire Severity designations.

7. COS-1.2 and 2.2 Prohibiting Private Development Within Established Preserves and Biologically Sensitive Areas

The projects also inconsistent with the requirements of the Conservation and Open Space Element. COS-1.2 requires the County to “prohibit private development within established preserves,” and COS-2.2 requires “development to be sited in the least biologically sensitive areas and minimize the loss of natural habitat through site design.” However, as discussed further in Section II below, most of the projects are sited in extremely sensitive biological areas, in several cases areas that have been specifically set aside for preservation as part federal, state, and county planning efforts. The County has also routinely violated COS-1.4, requiring the County to collaborate with trustee agencies to achieve “well-defined common resource preservation and management goals.” By disregarding the positions of state and federal wildlife agencies in supporting development that undermines agreed conservation plans, the County has ignored its obligation under the General Plan to collaborate with those agencies to reach established preservation goals.

C. The Projects Violate the General Plan’s Requirement to Provide Affordable Housing.

Another major goal of the General Plan is to create a housing stock at a range of prices (Goal H-1), especially to meet the County’s Regional Housing Needs Assessment allocations for lower income households. The Housing Element recognizes that one of the most promising mechanisms for achieving this goal is by requiring large-scale residential developers, particularly those who stand to handsomely profit by securing General Plan amendments—to provide affordable housing. For this reason, Policy H-1.9 “[r]equires developers to provide an affordable housing component when requesting a General Plan amendment for a large-scale residential project when this is legally permissible.”

Yet, as noted above, *none* of the seven large-scale residential projects listed in Section I.A, *supra*, all of which require significant General Plan amendments, contain any affordable housing component. Nor do the Otay Ranch Village 13 or Otay Village 14, which are also residential projects requiring General Plan amendments. This lack of any affordable housing component renders each project inadequate under State Planning and Zoning Law, which requires compliance with all General Plan policies that are

“fundamental, mandatory, and specific.” *Families Unafraid to Uphold Rural etc. County v. Board of Supervisors* (1998) 62 Cal.App.4th 1332, 1342; *Spring Valley Lake Assn v. City of Victorville* (2016) 248 Cal.App.4th 91, 100-101. It also represents a significant missed opportunity for the County and its residents. The Board of Supervisors, in 2011, recognized that one of the only ways to assure affordable housing development was to require its inclusion in large-scale General Plan amendments. Yet in the year when the County is considering the largest suite of such projects since the General Plan was developed, the County has taken the indefensible position that it need not impose *any* such requirements until it develops an affordable housing policy at some undetermined point in the future. *See, e.g.*, Newland Sierra Draft EIR, Appendix DD at DD-66 (“[t]he County does not presently have or enforce a requirement that projects include an affordable housing component when proposing a General Plan Amendment.”).

This position is inconsistent with the plain language of the General Plan. There is no wiggle room in Policy H-1.9 based on timing or development of a future policy, especially as the County has now had nearly *seven years* to develop an affordable housing program but has failed to do so. The County must either begin imposing conditions on a case-by-case basis, as permitted under existing law (*see Ehrlich v. City of Culver City* (1996) 12 Cal.4th 854), or suspend further consideration of these projects until a comprehensive policy can be developed. The County cannot simply delay and delay development of a program while the County assesses a once-in-a-decade opportunity to secure affordable housing in conjunction with nine General Plan amendments.

The only exception to the requirement is if such a plan is not “legally permissible.” But in recent years, the courts have made abundantly clear that local governments have the legal authority to impose affordable housing requirements on new development. *California Building Industry Assn. v. City of San Jose* (2015) 61 Cal.4th 435, 463). Indeed, numerous other counties have already developed inclusionary housing ordinances. *See, e.g.*, Los Angeles County (currently considering adoption of an inclusionary zoning ordinance, which would apply to both for-sale and rental housing); San Mateo County (policy requires 20% of both for-sale and rental units to be affordable); Santa Barbara County (policy requires up to 15% of projects to be affordable); Monterey County (policy requires 20% of rental and for-sale projects to be affordable); San Luis Obispo County (policy requires between 4% and 20% of rental and for-sale projects to be affordable).

If the County were to follow the lead of these other counties and adopt a 20 percent inclusionary housing ordinance, the proposed projects would yield nearly 3,000

*affordable housing units.*³ This would represent a nearly three-fold increase over the 1,085 very low, low, and moderate income units secured since 2010, *in a single year*. The County may not abandon its clear obligation under the General Plan to require affordable housing as a condition of granting general plan amendments for the projects.

D. These Haphazard, Developer-Driven Amendments to the General Plan Are Ill-Conceived and Unnecessary to Accommodate Additional Growth.

Many of the proposed projects have come to the Board of Supervisors as a supposed “solution” to the high housing costs that plague San Diego County and much of the state. Developers have tried to convince the Board that the only means of solving this issue is to allow them to build their projects on the semi-rural and rural lands they acquired in the hopes of entitling to make a quick profit.

But this argument is both erroneous and harmful. The County has already determined that the *existing* land use designations in the General Plan can easily accommodate the 22,412 residential units assigned to the County under the Regional Housing Needs Assessment (“RHNA”). General Plan at 6-2. The County should focus its efforts on removing impediments to developing these lands, rather funneling growth into semi-rural and rural areas. For instance, updating the Community Plans is fundamental to achieving planned Village densities yet the County is woefully behind on this task.

The consequences of allowing the project developers’ argument to prevail will be disastrous. The County adopted a General Plan that balances the need for growth with the need to protect open spaces, agriculture, and habitat and to keep new residents out of harm’s way. As described above, the suite of projects before the County fundamentally undermines the validity of this model, tipping the carefully calibrated balance developed in the General Plan back toward haphazard, sprawl development.

If the Board does want to move the County in that direction, it is free to do so. However, such decision would need to be made as part of a comprehensive overhaul of the County’s General Plan, that would move away from the Community Development Model and instead acknowledge that the County has chosen to turn over its rural lands to luxury home development, far from existing commercial centers, and without provision

³ This calculation is based on the 14,613 total units included in the nine projects requiring the general plan amendments currently under consideration by the Board of Supervisors: Harmony Grove Village South, Valiano, Otay 250, Newland Sierra, Warner Ranch, Lilac Hills Ranch, Property Specific Request GPA, Otay Ranch Village 13, and Otay Village 14.

of affordable housing. What it cannot do is approve the projects and simultaneously comply with the core policies and overarching vision of the existing General Plan.

II. THE COUNTY HAS NOT ADEQUATELY ANALYZED THE CUMULATIVE ENVIRONMENTAL IMPACTS FROM PROPOSED DEVELOPMENT PROJECTS.

An EIR must discuss significant “cumulative impacts.” CEQA Guidelines § 15130(a). A legally adequate cumulative impacts analysis views a particular project over time and in conjunction with other related past, present, and reasonably foreseeable future projects whose impacts might compound or interrelate with those of the project at hand. CEQA Guidelines § 15355(b). Cumulative impacts analysis is necessary because “environmental damage often occurs incrementally from a variety of small sources [that] appear insignificant when considered individually, but assume threatening dimensions when considered collectively with other sources with which they interact.” *Communities for a Better Environment v. Cal. Resources Agency* (2002) 103 Cal.App.4th 98, 114, overruled on other grounds.

A cumulative impacts analysis is especially important in the present case because, as discussed above, the County is currently considering numerous large development projects, most of which are far removed from urban areas. These include, for example, Harmony Grove Village South, Lilac Hills Ranch, Newland Sierra, Otay 250, Otay Ranch Village 13, Otay Ranch Village 14, Warner Ranch, Valiano and the PSRs. These projects would follow the County’s December 2016 FCI Amendment project, which dramatically increased allowed residential development. In addition to these projects, the City of Escondido is proposing the Safari Highlands Project that would annex and convert unincorporated county rural land to housing, and the city of Santee is also contemplating a very large project (2,900 units) known as Fanita Ranch. These twelve projects (hereinafter referred to as the “Cumulative Projects”) would result in nearly **20,000 additional housing units** within the County’s wildlands and other open space. As discussed above, the vast majority of this development was not contemplated by the County when it updated the General Plan in 2011.

With the exception of the Fanita Ranch project, separate EIRs have been prepared for each of the Cumulative Projects.⁴ Excerpts from each of these EIRs are attached as Exhibit 26. The cumulative impact analyses included in these EIRs, however, is cursory and incomplete and does not come close to meeting CEQA’s clear legal standard. The EIRs purport to conduct the first step of the analysis—identification of approved and pending projects in the County—but the lists of projects are wildly inconsistent and omit

⁴ The EIR for Fanita Ranch has not yet been prepared.

many of the Cumulative Projects. But the EIRs fail entirely to conduct the second step of analyzing the combined effects of the anticipated projects. This section of the letter addresses the County's flawed attempt to analyze the following cumulative impacts: air quality, wildfire-related impacts, energy, climate change, and land use.

A. The County's EIRs Provide an Incomplete and Inconsistent List of Cumulative Projects.

Each of the EIRs for the Cumulative Projects identifies varying numbers of land use projects that were included in their respective cumulative impact analyses. Moreover, some of the EIRs omit certain of the Cumulative Projects discussed in this letter. For example, the Newland Sierra Project EIR purports to have evaluated the environmental impacts from 199 projects but omits consideration of the three projects that the County is currently considering in Otay (Otay 250, Otay Village 13, and Otay Village 14). *See* Newland Sierra EIR Table 1-10. The Warner Ranch EIR purports to have evaluated impacts from 99 projects (*see* Warner Ranch EIR Table 1-5), but other than Newland Sierra and Lilac Hills Ranch, it does not consider the cumulative impacts from the other Cumulative Projects (i.e., Harmony Grove, Otay 250, Otay Village 13, Otay Village 14, Warner Ranch, Valiano, the PSRs, Safari Highlands, and Fanita Ranch are excluded from the cumulative impact analysis). The Otay Village 14 EIR identifies just 21 projects in its list of cumulative projects and excludes Lilac Hills Ranch, Newland Sierra, Harmony Grove, Warner Ranch, Otay 250, and Valiano. *See* Otay Village 14 EIR Table 1-7 and Figure 1-16.

All of the EIRs for the Cumulative Projects were prepared within the last few years and the Board of Supervisors is planning to vote on nearly all of the cumulative projects this year. There is no logical explanation as to why these EIRs do not consider the same list of cumulative projects, especially for regional impacts such as air quality, wildfire-related impacts, energy, climate change, and water supply.

B. Cumulative Impacts Related to Inconsistencies with San Diego's Air Quality Plan.

The San Diego Air Pollution Control District (SDAPCD) relies on the Regional Air Quality Strategy (RAQS) to demonstrate how the region will comply with the federal and state ozone standards. *See e.g.*, Newland Sierra EIR at 2.3-8; *see also* Harmony Grove DFEIR at 2.6-5. Specifically, the RAQS details how the region will manage and reduce ozone precursors (NOx) and volatile organic compounds (VOCs) by identifying measures and regulations intended to reduce these contaminants. *Id.* Each of the EIRs for the Cumulative Projects uses the RAQS as a threshold of significance for determining a project's potential air quality impacts.

The RAQS' emission inventories and projections are based on SANDAG's growth projections which, in turn, are based on population, vehicle trends, and land use plans developed by the cities and San Diego County as part of the development of their general plans and general plan land use designations. *See* Newland Sierra FEIR at 2.3-8; *see also* Lilac Hill's EIR at 2.2-8. Consistency with the RAQS is therefore determined by comparing the emissions forecasts from a project's land uses with emission forecasts based on the land uses for the area included in the RAQS. A project that involves development that is consistent with the growth anticipated by local plans would be consistent with the RAQS. *See e.g.*, Newland Sierra FEIR at 2.3-28. However, if a project involves development that is greater than that anticipated in SANDAG's growth projections, the project would potentially be in conflict with the RAQS and may contribute to a potentially significant cumulative impact on air quality. *Id.*

The EIRs for seven of the Cumulative Projects determined that the projects are inconsistent with the RAQS because they would result in more intense land uses and contribute to local population growth, employment growth, and associated increases in vehicle miles traveled (VMT) that is not accounted for in the County's General Plan. These are: (1) GPA PSR (*see* GPA PSR FDSEIR at 2.3-11; 2.3-20); (2) Lilac Hills (*see* Lilac Hills EIR at 2.2-8); (3) Newland Sierra (*see* Newland Sierra FEIR at 2.3-29); (4) Harmony Grove Village South Project (*see* Harmony Grove Draft Final EIR at 2.6-17); (5) Warner Ranch (*see* Warner Ranch DEIR at 2.2-32); (6) Safari Highlands (*see* Safari Highlands DEIR at 2.2-15); and (7) Valiano (*see* Valiano FEIR at 2.2-28).

These seven projects were also determined to result in a cumulatively considerable net increase in emissions of criteria pollutants and would therefore be in conflict with the RAQS. *See* GPA PSR FDSEIR at 2.3-20; Lilac Hills EIR at 2.2-8; Newland Sierra FEIR at 2.3-65; Harmony Grove Village South Project Draft Final EIR at 2.6-17; Warner Ranch DEIR at 2.2-30; Safari Highlands DEIR at 3.0-17; and Valiano FEIR at 2.2-28. Yet, rather than study the environmental implications of this inconsistency, the County takes the legally impermissible easy route: it simply asserts that the projects would be in conflict with the RAQS and labels impacts as significant and unavoidable. None of the EIRs offer any information on the nature or scope of the problem. Nor do any of the EIRs make any attempt to quantify the cumulative increase in air pollutant emissions that would result from all of the Cumulative Projects.

CEQA does not allow an agency to simply conclude that an impact is significant and unavoidable and move on. An agency's rote acknowledgement that impacts are "significant" does not cure its EIR's failure to analyze the issue. As the court stated in *Galante Vineyards v. Monterey Peninsula Water Management District*, "this acknowledgment is inadequate. 'An EIR should be prepared with a sufficient degree of analysis to provide decisionmakers with information which enables them to make a

decision which intelligently takes account of environmental consequences.” (1997) 60 Cal.App.4th 1109, 1123 (quoting *Santiago County Water Dist. v. County of Orange* (1981) 118 Cal.App.3d 818, 831); *see also* *Mira Monte Homeowners Assn. v. County of Ventura* (1985) 165 Cal.App.3d 357, 365 (an EIR is meant to protect “the right of the public to be informed in such a way that it can intelligently weigh the environmental consequences of a[] contemplated action”). Here, the County must actually *analyze* the implications of this unplanned growth on the region’s ability to attain the federal and state ozone standards. In other words, the public must receive information that allows it to understand just how far these projects would set the region off course from achieving its air quality goals.

A calculation of ozone precursor emissions VOC and NOx reveals that the cumulative increase in emissions would be substantial. For example, as Table 3 shows, the VOC emissions from just ten of the Cumulative Projects would generate 1,783 pounds of VOC emissions every day. This amount of VOC emissions exceeds the SDAPCD emissions thresholds by almost 2,300 percent. These ten projects would generate 714 pounds per day of NOx emissions, an amount that exceeds the SDAPCD threshold by about 850 percent.

Table 3: VOC and NOx (Ozone Precursor) Operational Emissions (pounds per day)

Project	VOC	NOx
Safari Highlands ⁵	65.77	51.79
Harmony Grove ⁶	32	32
Lilac Hill’s	NA	NA
Newland Sierra ⁷	122.88	207.03
Otay 250 ⁸	211.08	155.89
Otay Village 13 ⁹	192	118.43

⁵ Safari Highlands DEIR at 2.2-19.

⁶ Harmony Grove DFEIR at 2.6-23.

⁷ Newland Sierra FEIR at 2.3-75.

⁸ Otay 250 DEIR at 2.1-33.

⁹ Otay Village 13 DSEIR at 2.2-27.

Otay Village 14 ¹⁰	124.93	113.77
Warner Ranch ¹¹	1,254.42	64.46
PSR GPA ¹²	127	176
Valiano ¹³	33	36
TOTAL	1,782.92	713.81
SDAPCD Thresholds of Significance ¹⁴	75	75
Percent increase over SDAPCD Thresholds	2,277%	852 %

The above calculations do not even take into account increased emissions from the FCI or the proposed Fanita Ranch project, or the hundreds of other projects currently contemplated by the County that will also generate VOC and NO_x emissions. This cumulative increase in VOC and NO_x emissions would clearly delay the RAQS goals for achieving the state and federal ozone standards. Yet, until the County conducts the necessary analysis of these cumulative and substantial air quality impacts, the public and decisionmakers are left in the dark as to the severity of these impacts.

The EIRs for the Cumulative Projects also fail to identify effective mitigation for the Cumulative Projects' inconsistencies with the RAQS. The documents merely call for amending SANDAG's growth forecasts and the RAQS to include the air pollutant emissions from the development projects. *See e.g.*, Lilac Hills DEIR at 2.2-9; 2.2-26; Newland Sierra FEIR at 2.3-65; Valiano FEIR 2.2-28. But simply amending planning documents does not provide real world mitigation for the air quality impacts of the Cumulative Projects, either individually or collectively. The County must disclose and mitigate the significant effect that the totality of this unplanned growth will have on the region's air quality.

¹⁰ Otay Village 14 DEIR at 2.3-58; 2.3-59.

¹¹ Warner Ranch DEIR at 2.2-36.

¹² PSR GPA DFSEIR at 2.3-37.

¹³ Valiano FEIR at 2.2-38.

¹⁴ PSR GPA DFSEIR at 2.3-11.

C. Cumulative Impacts Related to Wildfire-Related Risks.

As the catastrophic 2017 fires across California demonstrated, wildfires dramatically alter the state's environment, pose a tremendous risk of injury and death, and cause billions of dollars of damage to buildings and infrastructure. Further, the threat of wildfire is increasing. In the coming decades, climate change will alter temperatures, winds, precipitation, and species, with potentially substantial fire hazard impacts. (*See Exhibit 9 at 4-5: Dr. J. Zicherman, Berkeley Engineering and Research Inc., December 20, 2017, Wildland Fire Report prepared in connection with the Safari Highlands Ranch EIR*).

The wildfire hazards that the Cumulative Projects will cause cannot be overstated. A substantial amount of land within San Diego County is located within Very High or High Fire Hazard Severity Zones. *See Exhibit 27 (Wildfire Hazard Map)*. Most, if not all, of the Cumulative Projects will be located within these hazardous wildfire zones. To make matters worse, wildfire threats are no longer seasonal. Historically, fire season in San Diego occurred during the fall, when the Santa Ana winds come charging through the brush fueling wildfires. But now, according to a retired fire chief, "*San Diegans are experiencing fire season year-round.*" *See Exhibit 17 (New York Times Article, "Record Heat in Southern California, and an Ominous Start to Wildfire Season," July 7, 2018, quoting retired fire chief George Lucia, emphasis added)*. Statewide, the 2018 California wildfire season is off to its worst start in the last 10 years. Last year at this time, only 68,647 acres had burned while 196,092 acres have burned so far this year. *See Exhibit 16 ("Why California's fire season is off to the worst start in 10 years," San Jose Mercury News, July 10, 2018)*.

Development in the wildland urban interface, like the proposed Cumulative Projects, significantly exacerbates the human health and environmental damage wrought by wildfires. In addition to unwisely placing people and structures directly in the line of fires, this development can dramatically increase ignition risks compared to existing undeveloped conditions. As wildfire scientist Chris Lautenberger explains, most wildland fires are caused by humans as opposed to natural causes such as lightning. *See Exhibit 10 (Dr. C. Lautenberger, REAX Engineering, April 12, 2018, Wildland Fire Report prepared in connection with the Otay Ranch Village 14 Project)*. Common anthropogenic causes of fire include arson/incendiary, equipment use, debris burning, smoking, vehicles, fireworks, electricity, and outdoor cooking (grilling). *Id.* Additionally, structure fires sometimes spread and initiate wildland fires.

Myriad scientific studies confirm Dr. Lautenberger's findings. Developing housing in locations in California that currently have low or no density, as is the case here, dramatically increases the number of fires and the amount of area burned. *See Fire*

history of the San Francisco East Bay region and implications for landscape patterns, J. Keeley, *International Journal of Wildland Fire*, 14:285–296, 2005 (attached as Exhibit 11); *see also Land Use Planning and Wildfire: Development Policies Influence Future Probability of Housing Loss*, Syphard AD, Bar Massada A, Butsic V, Keeley JE, 2013, attached as Exhibit 12; *see also Human Influence on California Fire Regimes*, Syphard, A. D., V. C. Radeloff, J. E. Keeley, T. J. Hawbaker, M. K. Clayton, S. I. Stewart, and R. B. Hammer, *Ecological Application* 17:1388–1402, 2007, stating that ninety-five percent of California’s fires are caused by human activity, attached as Exhibit 13.

The resulting human health and environmental consequences are numerous and devastating. The most obvious is the direct loss life of life and property caused by the fires themselves. The ignition of a wildfire may occur with little or no notice and certain evacuation response operations are simply not feasible. In the October 2017 deadly Tubbs fire in Santa Rosa, “efforts to warn residents of approaching flames were successful only 50% of the time. The entire warning system was fraught with multiple levels of malfunction and incompleteness.” *See “Alarming failures left many in path of California wildfires vulnerable and without warning,” Los Angeles Times*, Dec. 29, 2017, attached as Exhibit 14.

Moreover 2017’s severe fires make clear that wildfires pose safety threats for those trying to escape a fire. Attempting to evacuate from wind-driven fires can be treacherous if not fatal. As this news video¹⁵ shows, during Santa Ana wind conditions a fire—or more often multiple fires—can start and grow at an explosive rate leaving residents with little or no time to evacuate. As the video also shows, roads obscured by smoke (or actually blocked by flames) coupled with the emotional state of drivers can make evacuation all but impossible. People become trapped in their cars attempting to flee. As one retired fire captain explains,

As I maneuvered on foot up the freeway, I felt as if I was a kid in a fast-paced game of dodgeball, but instead of dodging a ball, I was outmaneuvering burning cars, blowing debris, and racing acrid black smoke—I knew this was no childhood game. I hustled up the southbound lanes of traffic, up a steep grade, and found all three agencies trying to put out burning vehicles. Cars had stopped suddenly on the freeway in blinding smoke as the fire overtook their position, causing a traffic jam. This near deadly bottleneck of vehicles blocked other drivers from escaping the flames in their cars, so they had to abandon them and leave on foot, regardless of how they were dressed and what they had in their hands. There was no time for clear rational decision making; it was a time for

¹⁵ <https://www.youtube.com/watch?v=lvcmy07zRIo>

flight on foot in an effort to find safety on the freeway in the middle of a firestorm. *See* Caught in the Firestorm, February 1, 2016 attached as Exhibit 15.

Wildfires also devastate critical habitat for endangered or sensitive species. For instance, San Diego County wildfires in 2003 and 2007 caused a dramatic loss of coastal sage scrub and chaparral habitats in the County. *See The Response and Recovery of Animals and Plants to the 2003 and 2007 San Diego County Wildfires*, USGS Western Ecological Research Center, attached as Exhibit 18.

And wildfires' harm reaches well-beyond a fire's immediate burn area. Among the myriad economic, social, and environmental harms, severe air quality degradation is among the most far reaching. Wildfire's ability to create hazardous air conditions has been well documented for decades. Wildfire smoke can quickly deteriorate air quality to "very unhealthy" and "hazardous" levels measured by the EPA's Air Quality Index. Exhibit 19 *Wildfires and Air Pollution: the Hidden Health Hazards of Climate Change*, A. Kenward, D. Adams-Smith, and U. Raja, Climate Central (2013) at 13. In fact, according to the US EPA, the wild land fires now accounts for 40% of the PM that is emitted nationwide each year. *The Danger of Wildland Fire Smoke to Public Health*, EPA (2018).¹⁶ And ample public health data has documented the health impacts from wildfire smoke. For instance, during heavy fire periods in San Diego County, hospital visits for difficulty breathing and asthma have spiked by 50% to 100%. Exhibit 21 *Monitoring Health Effects of Wildfires Using the BioSense System, San Diego County, California, October 2007*, CDC Morbidity and Mortality Weekly Report 57:1741-44.

In light of these facts, one would expect the County to have comprehensively analyzed the cumulative risk of wildfire-related impacts from the Cumulative Projects. This analysis would evaluate the increase in the risk of wildfires due to human ignitions and the resulting harm to lives, property, and the environment from these wildfires. Indeed, the EIRs must consider the cumulative fire risk from the projects because wildfires are influenced by weather patterns that can lead to multiple fires igniting at the same time. *See* Exhibit 22 (New York Times Article, "Wildfire Threats in Ventura and San Diego Counties," Dec. 7, 2017.)

Yet the EIRs for the Cumulative Projects provide no such analysis. For instance, none of the EIRs for the Cumulative Projects disclose in any meaningful way the threat to individuals' public safety as they attempt to evacuate, especially during a wind-driven fire. Generally the EIRs describe vague emergency response plans that provide goals,

¹⁶ available at <https://www.epa.gov/sciencematters/danger-wildland-fire-smoke-public-health>.

objectives and actions for emergency response agencies, such as “focusing on early evacuation” and even “sheltering in place.” Harmony Grove Village Project DFEIR at 3.1.3-14 and 3.1.3-22. Moreover, several of the EIRs—such as Newland Sierra, Otay Ranch Village 14, and Safari Highlands—appear to assume that a fire will initially occur at some distance from a project site and that residents will have ample time to evacuate – a convenient but unsupportable assumption.

The EIRs also consistently assert that each development project would not contribute to a cumulative wildfire risk because it would convert existing “fuels” into developed land with fuel modification areas and would construct “ignition resistant” structures. (*See e.g.*, Harmony Grove Draft Final EIR at 3.1.3-28; *see also* Lilac Hills DFEIR at 2.7-43, stating, “Generally, when a project is constructed it results in the removal of available flammable fuels for wildfire to consume and breaks up fuel continuity. This effectively gives fire suppression resources an opportunity to contain and control a wildfire;” *see also* Newland Sierra FEIR at 2.8-32).

Certain of the EIRs go so far as to claim that these project features (fuel modification zones and “ignition-resistant” structures would actually improve fire safety in the area and for adjacent downwind communities by converting fuels into developed land). *See e.g.*, Otay Ranch Village 14 DEIR Appendix 3.1.1-2 (Fire Prevention Plan) at 41; *see also* Harmony Grove DFEIR at 3.1.3-22. These claims—that projects developed in locations known to have the highest wildland fire risk in California would improve fire safety—is belied by common sense and, as mentioned above, scientific studies that show that new development dramatically increase the likelihood of wildfire ignition. It is fatuous to suggest that disturbing a sizable open space parcel and adding homes and a range of non-native vegetation will in some way be more fire safe than an area left undisturbed. *See* Exhibit 9 at 5 (Zicherman Report). In his report on the Safari Highlands Project, fire scientist Dr. Zicherman explains,

From a risk perspective there is a 100% probability that a wind driven wildfire will affect the project, particularly one originating outside of the project boundaries where conditions are not under the control of the project developer. Such fires can develop in existing wildland not subject to fuel modification practices which have demonstrably affected earlier fires in the area. No manner of fuel modification at the project site can be expected to impact these adjoining unmodified areas which include terrain that will foreseeably impact the project site. Exhibit 9 at 26-27 (Zicherman Report).

Dr. Lautenberger confirms Dr. Zicherman’s conclusion. He explains that given the complex steep terrain vegetated by chaparral and coastal scrub in many areas of the County, a fire ignited during Santa Ana winds could easily spread at rates of several

miles per hour and would be largely unimpeded by fuel modification zones, irrigated areas, etc.” Exhibit 10 at 11 (Lautenberger). In short, a project built in a location known to have extreme wildfire risk cannot compensate for this hazard simply through a “fire-resistant” design. The only way to protect human life and structures is to not build in these locations in the first place. Wildfires and the devastation they inflict will only worsen if the County continues to allow unplanned growth in high fire hazard zones.

Building 20,000 new units in tens of thousands of acres of high fire hazard areas would not only create a significant impact, but would be a catastrophe in the making. In light of the devastation that wildfires have wrought this past year, it is inconceivable that the Board would consider putting County residents at even greater risk by dramatically expanding urban development in wildlands.

In any case, to comply with CEQA, the County must disclose the potential for increased wildfires due to the potential for increased ignitions from the Cumulative Projects and evaluate the increased risk to lives and property from these fires. Only when this analysis is undertaken will the public and decisionmakers be apprised of the real-world implications of developing new residential communities in the urban wildland interface.

D. Cumulative Impacts Related to Transportation-related Energy Consumption.

CEQA requires that agencies analyze and mitigate energy impacts. Public Resources Code section 21100(b)(3), CEQA Guidelines, Appendix F and sections 15126.4(a)(1)(C) and (c). As stated in Appendix F, “[i]n order to ensure that energy implications are considered in project decisions,” an EIR must discuss “the potential energy impacts of proposed projects, with particular emphasis on avoiding or reducing inefficient, wasteful and unnecessary consumption of energy.” Appendix F, § I. In *Ukiah Citizens for Safety First v. City of Ukiah* (2016) 248 Cal.App.4th 256, the court held that a city’s EIR for a proposed Costco retail store and gas station did not comply with CEQA, because the EIR failed to properly identify and analyze the potentially significant energy impacts of the project. *Ukiah Citizens* relies heavily on *California Clean Energy Committee v. City of Woodland* (2014) 225 Cal.App.4th 173 (CCEC). In *Ukiah Citizens*, as in *CCEC*, the city’s EIR concluded that the proposed project would generate thousands of new vehicle trips but failed to calculate the energy impacts of those trips.¹⁷

¹⁷ Energy is used for transportation in the form of fuel for vehicular trips. Harmony Grove Village South Project DEIR Energy Chapter at 3.1.1-17.

Gasoline and diesel fuel are nonrenewable energy products derived from crude oil. Petroleum accounts for approximately 92 percent of California's transportation energy sources. Newland Sierra DEIR at 3.1-5. Passenger cars and light-duty trucks are by far the largest consumers of transportation fuel in San Diego County, accounting for approximately 1.6 billion gallons of gasoline and diesel fuel per year. Harmony Grove Village South Project DEIR, Energy Chapter, at 3.1.1-8.

Without changes in policy or behavior, on-road consumption of petroleum-based fuels is expected to increase considerably by 2020 and through 2030. *Id.* To this end, the San Diego County General Plan contains goals and policies relevant to energy conservation. In particular, Community Goal #4: Transportation and Land Use calls for reducing petroleum demand through reduced vehicle demand and VMT and by encouraging deployment of alternative fuel vehicles.

Far from reducing vehicular demand and travel, each of the Cumulative Projects would result in a massive increase in VMT and, thus, energy consumption. As Exhibit 2 shows, the vast majority of these Projects would be far removed from jobs, causing longer than average driving distances. *See also* San Diego Forward: The Regional Plan, Appendix J (Regional Growth Forecast) at 4, identifying the locations of San Diego's largest employment centers, attached as Exhibit 23. Because there is little or no viable public transit in remote locations, residents would have to use their cars for the vast majority of trips. Notwithstanding the tremendous increase in VMT that would accompany each of the Cumulative Projects, the EIRs routinely assert that the Projects would not result in a wasteful, inefficient, or unnecessary consumption of energy.

Compounding matters, none of the EIRs make *any* attempt to quantify the increase in VMT or transportation-related energy consumption on a cumulative basis. We calculated the increase in VMT and transportation-related energy consumption from just four of the Cumulative Projects and the results were startling. As Table 1 shows, these four projects alone would cause VMT to increase by 644,739 miles *every day*, or over **235 million new VMT per year**. The increase in energy consumption from this increased travel would be more than seven million gallons of gasoline every year.

As these calculations makes apparent, the Cumulative Projects would result in a wasteful, and unnecessary consumption of energy because, as discussed above, all of this development constitutes unplanned growth in remote locations throughout the County. Moreover, also as discussed above, the County is considering hundreds of additional projects, many of which would likely be developed in remote locations, far from jobs and shopping. Rather than approving this sprawl development, the County should comply with its General Plan and promote development near or adjacent to urbanized areas which would, in turn, reduce wasteful energy consumption.

In sum, the County’s failure to analyze the cumulative increase in transportation-related energy demand violates CEQA. The County must analyze these impacts. It must also consider mitigation measures or alternatives to these projects that would avoid or reduce inefficient, wasteful and unnecessary consumption of energy.” Appendix F, § I.

Table 1: Project Specific and Cumulative Energy Impacts

Project	VTM	Energy Consumption From Automobiles and Trucks	Project-specific Significance Determination	Approach to cumulative Impact Analysis re Transportation-Related Energy Consumption
Harmony Grove Village South Project	31,507 VMT per day ¹⁸	1,832 gallons of gasoline per day. ¹⁹	Less than significant. ²⁰	Less than significant. Does not quantify. It references County programs and policies and SDG&E initiatives that will purportedly reduce total energy demand. ²¹
Lilac Hills Ranch	No data	No data	Less than significant ²²	No analysis of cumulative energy impacts.
Newland Sierra	262,081 VMT per day. ²³	11,792 gallons of gasoline per day. ²⁴	Less than significant. ²⁵	Less than significant. Does not quantify. It asserts that the design of the Project would reduce VMT. ²⁶

¹⁸ The Project would result in 11.5 million VMT annually which equates to approximately 31,507 VMT per day. Harmony Grove Village South Project DEIR Energy Chapter at 3.1.1-17.

¹⁹ One gallon of gasoline is equivalent to approximately 125,000 BTU, respectively, taking into account energy consumed in the refining process. Valiano Project FEIR at 3.1.2-1. The total estimated direct annual energy consumption from the Harmony Grove Project-related automobile and truck use would be approximately 83.6 billion BTU per year at buildout. This equates to 668,800 gallons of gasoline per year or 1,832 gallons of gasoline per day. Harmony Grove Village South DFEIR at 3.1.1-17
 Harmony Grove Village South Project DEIR Energy Chapter at 3.1.1-17.

²⁰ Harmony Grove Village South Project DEIR Energy Chapter at 3.1.1-18.

²¹ Harmony Grove Village South Project DEIR energy Chapter at 3.1.1-19.

²² Lilac Hills Draft Final EIR Energy Chapter at 3.1.8-8.

²³ Newland Sierra FEIR at 3.1-16.

²⁴ Newland Sierra FEIR at 3.1-24.

²⁵ Newland Sierra FEIR at 3.1-17.

²⁶ Newland Sierra FEIR at 3.1-19.

Otay Ranch Village 13	186,301 VMT per day. ²⁷	No data	Less than significant	No analysis of cumulative energy impacts.
Otay Ranch Village 14	138,275 VMT per day. ²⁸	4,707 gallons of gasoline per day. ²⁹	Less than significant. ³⁰	Less than significant. Does not quantify. It references federal and state regulations that will reduce transportation fuel demand. ³¹
Valiano	26,575 VMT per day. ³²	1,556 gallons of gasoline per day). ³³	Less than significant. ³⁴	Less than significant. Does not quantify. It states that County programs and policies and SDG&E initiatives would serve to reduce total energy demand among cumulative projects. ³⁵
TOTAL	644,739 VMT per day or 235,329,735 VMT per year	19,887 gallons per day or 7,258,755 gallons of gasoline per year.		

E. Cumulative Impacts Related to Climate Change.

Analysis of greenhouse gas (“GHG”) emissions is particularly important with regard to climate change because we have already exceeded the capacity of the atmosphere to absorb additional GHG emissions without risking catastrophic and

²⁷ The Project would result in 68,000,000 million VMT per year which equates to approximately 186,301 VMT per year. Otay Ranch Village 13 DEIR at 3.9-7.

²⁸ The Project would result in 50,470,265 VMT per year which equates to approximately 138,275 VMT per day. Otay Ranch Village 14 and Planning Areas 16/19 EIR at 3.1.9-19.

²⁹ Otay Ranch Village 14 DEIR at 3.1.9-27.

³⁰ The Project would result in the consumption of 1,718,084 gallons of gasoline per year which equates to 4,707 gallons per day. Otay Ranch Village 14 DEIR at 3.1.9-23.

³¹ Otay Ranch Village 14 DEIR at 3.1.9-23.

³² The Project would result in 9,700,000 VMT per year which equates to 26,575 VMT per day. Valiano Project FEIR at 3.1.2-18.

³³ The Project would result in the consumption of 71 billion BTU per year which equates to 568,000 gallons of gasoline per year which equates to 1,556 gallons of gasoline per day. Valiano Project FEIR at 3.1.2-25.

³⁴ Valiano Project FEIR at 3.1.2-20.

³⁵ Valiano Project FEIR at 3.1.2-20.

irreversible consequences. Therefore, even seemingly small additions of GHG emissions into the atmosphere must be considered cumulatively considerable. *See Communities for Better Environment v. Cal. Resources Agency* (2002) 103 Cal.App.4th 98, 120 (“the greater the existing environmental problems are, the lower the threshold for treating a project’s contribution to cumulative impacts as significant”); *see also Center for Biological Diversity v. National Highway Traffic Safety Admin.* (9th Cir. 2007) 508 F.3d 508, 550 (“we cannot afford to ignore even modest contributions to global warming”).

The transportation sector is one of the largest contributors to anthropogenic GHG emissions in the U.S., accounting for 28 percent of total U.S. GHG emissions in 2016.³⁶ As discussed above, largely because they would be developed in remote locations throughout the County, the Cumulative Projects would result in a substantial increase in VMT countywide and, as a result, GHG emissions.

None of the EIRs for the Cumulative Projects’ quantify the cumulative increase in GHG emissions across these projects or other recently-approved or reasonably foreseeable projects. A quick calculation of GHG emissions from the Cumulative Projects alone reveals that the increase would be substantial. As Table 2 shows, just five of the Cumulative Projects would generate 74,594 metric tons (MT) CO₂e during construction while operation of the Projects would generate another **150,451 MT CO₂e every year**. This increase in GHG emissions does not include the emissions generated by the other Cumulative Projects or the myriad other projects awaiting approval by the County.

³⁶ Fast Fact on Transportation Greenhouse Gas Emissions, U.S. EPA, available at: <https://www.epa.gov/greenvehicles/fast-facts-transportation-greenhouse-gas-emissions>; accessed July 2, 2018.

Table 2: Cumulative Climate Change Impacts and Proposed Use of Offsets

	GHG- construction and vegetation removal (before mitigation)	GHG- operation (before mitigation)	Proposed use of offsets
Harmony Grove Village South	4,411 MT CO ₂ e/year ³⁷	5,222 MT CO ₂ e/year ³⁸	yes ³⁹
Lilac Hills	18,239 MT CO ₂ e/year ⁴⁰	33,211 MT CO ₂ e/year ⁴¹	yes ⁴²
Newland Sierra	93,323 MT CO ₂ e/year ⁴³	52,986 MT CO ₂ e/year ⁴⁴	yes ⁴⁵
Otay Ranch Village 14	21,845 MT CO ₂ e/year ⁴⁶	16,384 MT CO ₂ e/year ⁴⁷	yes ⁴⁸
PSR GPA	36,776 MT CO ₂ e/year ⁴⁹	42,648 MT CO ₂ e/year ⁵⁰	compliance with CAP (which may include purchase of carbon offsets). ⁵¹
TOTAL	174,594 MT CO ₂ e/year ⁵²	150,451 MT CO ₂ e/year	

³⁷ Harmony Grove Village South DFEIR at 2.7-15.

³⁸ Harmony Grove Village South DFEIR at 2.7-15.

³⁹ Harmony Grove Village South DFEIR at 2.7-23.

⁴⁰ Lilac Hills Ranch RDEIR at 3-34.

⁴¹ Lilac Hills Ranch RDEIR at 2.9-35.

⁴² Lilac Hills Ranch RDEIR at 2.9-35.

⁴³ Newland Sierra DEIR at 2.7-35.

⁴⁴ Newland Sierra DEIR at 2.7-57.

⁴⁵ Newland Sierra DEIR at 2.7-47.

⁴⁶ Otay Ranch Village 14 DEIR at 2.7-47.

⁴⁷ Otay Ranch Village 14 DEIR at 2.7-47.

⁴⁸ Otay Ranch Village 14 DEIR at 2.7-31.

⁴⁹ PSR GPA Draft Final SEIR at 2.17-11.

⁵⁰ PSR GPA Draft Final SEIR at 2.17-11.

⁵¹ PSR GPA Draft Final SEIR at 2.17-9.

⁵² As a point of reference, the Bay Area Air Quality Management District (“BAAQMD”) identifies the following as a threshold of *Significance* for land use development projects: compliance with a qualified GHG Reduction Strategy or annual emissions less than 1,100 MT/yr of CO₂e. BAAQMD CEQA Air Quality Guidelines at 2-4. If annual emissions of operational-

Quantification of the cumulative increase in GHG emissions from the County's contemplated development projects is extraordinarily important because the County is proposing to "mitigate" GHG emissions through the purchase of carbon offsets. Yet, without considering the Cumulative Projects together, it is impossible to know whether there will be adequate offsets available to satisfy the Projects' offset requirements.

In fact, it is highly unlikely that there is a sufficient amount of offset credits available to mitigate the emissions from the County's planned development as the sheer volume of emissions creates a large and growing demand for offsets. For example, the Newland Sierra project proposes that 82% of its GHG emissions be mitigated through offsets. Yet, according to the EIR prepared in connection with the County's CAP, as of January 2018, there were no credits from carbon offset projects located in the County that were available on any of the three offset registries approved by the California Air Resources Board (CARB). *See* Final Supplement to the 2011 General Plan Update Program Environmental Impact Report for the Climate Action Plan, Chapter 8, Comments and Responses, at 8-53, attached as Exhibit 4.

Moreover, in practice, even the most sophisticated offset programs have failed. A 2016 report prepared for the European Union Directorate General for Climate Action concluded that nearly 75% of potential certified offset projects had a low likelihood of actually contributing additive GHG reductions, and less than 10% of such projects had a high likelihood of additive reductions. *See* How Additional is the Clean Development Mechanism? Analysis of the application of current tools and proposed alternatives, Institute of Applied Ecology, March, 2016 at 11, attached as Exhibit 6; *see also* Carbon Credits Likely Worthless in Reducing Emissions, Study Says, Inside Climate News, April 19, 2017, attached as Exhibit 7. If an offset program does not achieve additive reductions, it will not actually mitigate a project's GHG emissions. Because of these known problems with enforcement and efficacy, agencies typically permit offsets to constitute only a very small part of an overall emission reduction program. For example, California's cap and trade program allows no more than eight percent of GHG reductions to come from offsets, which will drop to four percent in 2021, at which point at least half of the offsets used must "provide direct environmental benefits in state." Health & Safety Code § 38562(c)(2)(E).

The problems with the County's carbon offset program extend beyond the fact that offsets may not be available or effective. CARB explicitly prioritizes onsite measures to reduce a project's GHG emissions: "[t]o the degree a project relies on GHG mitigation

related GHGs exceed these levels, the proposed project would result in a cumulatively considerable contribution of GHG emissions and a cumulatively significant impact to global climate change. *Id.*

measures, CARB recommends that lead agencies prioritize on-site design features that reduce emissions, *especially from VMT*, and direct investments in GHG reductions within the project's region that contribute potential air quality, health, and economic co-benefits locally." See CARB's 2017 Climate Change Scoping Plan attached as Exhibit 8, at 102 (emphasis added). Here, however, the County does not intend to require that GHG mitigation be local or even within the County. Thus, instead of designing residential development to actually reduce VMT by siting it near jobs, services, and transit, the County intends to simply write a blank check for carbon "offsets," some of which could be out of California or even out of the U.S. See e.g., Newland Sierra FEIR at 2.7-50. The County's carbon offset program therefore has the effect of facilitating high VMT development in locations with long commutes to jobs and services and without access to transit. This approach is directly contrary to CARB's recommendation to prioritize onsite GHG emission reduction. *Id.*

To the extent the EIRs rely on the County's Climate Action Plan ("CAP") to address GHG impacts, that reliance is similarly misplaced. The CAP and its accompanying EIR suffer from the same inadequacies as the project EIRs – they fail to analyze the GHG or VMT impacts of the Cumulative Projects, rely entirely on offsets to mitigate any impacts from those projects, and do not require evidence that offsets are available, enforceable, additional (i.e., would not otherwise have occurred), or, as required by the County's General Plan, local. See General Plan, Mitigation Measure CC-1.2. The CAP completely jettisons the idea that VMT should be reduced through sound land use planning, and the County has failed to work collaboratively with SANDAG on VMT reduction as required by the County's own General Plan⁵³. For these reasons, the CAP remains tied up in litigation and is likely to be overturned by the courts, which will also invalidate any approval the County makes in reliance on the CAP.

Even without the Cumulative Projects, the County's practice of approving residential development projects outside of urbanized areas is already causing VMT to substantially outpace population growth in the County. Between 2005 and 2017 freeway VMT increased by 27 percent while population grew by just 12 percent.⁵⁴ See Exhibit 25 (San Diego County Freeway VMT and San Diego County Daily Per Capita Freeway VMT). If the County continues to approve large scale residential development in locations far removed away from jobs, services, and transit, VMT and transportation-related GHG emissions will continue to skyrocket.

⁵³ See, e.g., policies COS-20.3; M-8.1; M-8.3; M-8.6; M-8.7.

⁵⁴ According to the Department of Finance, San Diego County's population increased 12 percent from 2005 to 2017, from 2,966,783 to 3,309,509.

The County must quantify the increase in GHG emissions from all of the development projects currently being considered. It must then identify feasible mitigation for this increase in emissions. Even if offsets were potentially feasible mitigation, the County must demonstrate their effectiveness in reducing the cumulative climate change impacts. When a lead agency relies on mitigation measures to find that project impacts will be reduced to a level of insignificance, there must be substantial evidence in the record demonstrating that the measures are feasible and will be effective. *Sacramento Old City Assn. v. City Council of Sacramento* (1991) 229 Cal.App.3d 1011, 1027 (1991); *Kings County v. City of Hanford* (1990) 221 Cal.App.3d 692, 726-29. As discussed above, the County has provided no such evidence.

F. Cumulative Impacts Related to Inconsistency with Land Use Plans

CEQA requires that agencies analyze a project's consistency with applicable land use plans. *See Napa Citizens for Honest Govt. v. Napa County Bd. of Supervisors* (2001) 91 Cal.App.4th 342, 386-87; CEQA Guidelines Appendix G, § X. As discussed in Section I above, the Cumulative Projects involving General Plan amendments (or the annexation and redesignation of unincorporated territory) would add nearly 10,000 units to the rural parts of the County beyond what the General Plan currently allows, and would eviscerate the Plan's Community Development Model and numerous policies in the Land Use Element and Housing Element. None of the EIRs analyze the cumulative effects of the projects on General Plan consistency.

Nor do the EIRs analyze the cumulative effects of the projects on consistency with other countywide plans, such as SANDAG's Regional Transportation Plan/Sustainable Communities Strategy ("RTP/SCS"), or the approved or proposed Multiple Species Conservation Plans ("MSCPs") for the County prepared by state and federal resource agencies. Like the General Plan, the RTP/SCS assumes future growth will be focused around existing communities and relies on compact development and preserving open space to achieve its VMT reduction goals. The proposed projects would make attainment of those goals impossible.

Similarly, the MSCPs and related subarea plans are designed to facilitate development in less sensitive areas of the County by establishing a preserve system that will protect threatened and endangered species. The Cumulative Projects would not only destroy tens of thousands of acres of habitat, but many of the projects (e.g., Otay Ranch Village 14, Safari Highlands Ranch, Fanita Ranch, Newland Sierra) would convert lands specifically set aside for, or identified by state and federal wildlife agencies as needing, preservation in the MSCPs, threatening not only the assemblage of the proposed preserve systems but the continuing viability (or ability to gain approval) of the MSCPs.

The Cumulative Projects would undo years of planning efforts by the County and numerous other entities and stakeholders, representing exactly the type of haphazard development the resulting plans were intended to prevent. The County must take a comprehensive look at the cumulative effect those projects would have on consistency with those plans.

G. Other Cumulative Impact Issues

The cumulative impacts described above by no means capture all of the potential cumulative impacts of the Cumulative Projects. For example, the EIRs for the projects fail to accurately account for the cumulative water demands of the projects and how they will affect the County's water supply. All of the projects being considered by the County will utilize water from the San Diego County Water Authority (SDWCA). But the relevant Urban Water Management Plans upon which the EIRs rely assume growth consistent with the current General Plan and have not assessed the combined water demands of an additional 20,000 additional units. This cumulative development would require expansion of existing water supplies beyond SDCWA's projections and identified supplies. These and other cumulative impacts must be considered by the County before any of the projects are approved.

III. THE COUNTY'S "BUNDLING" OF THE GENERAL PLAN AMENDMENTS IS INCONSISTENT WITH THE PURPOSE OF GOVERNMENT CODE SECTION 65358 AND CONFLICTS WITH CEQA'S MANDATE TO REVIEW THE IMPACTS OF THE "WHOLE OF AN ACTION."

As if the substantive problems with the proposed General Plan amendments were not enough, the County is proposing a process for considering those amendments that is designed to rush through most of the amendments before the end of the year by "bundling" multiple projects together in a single general plan amendment – but without assessing the combined impacts of the bundled projects. However, the County may not have its cake and eat it too. If the County wants to combine several projects into a single amendment, it may do so, but it then must analyze the whole of the combined project in a CEQA document. It cannot bundle projects together but piecemeal their environmental review.

Government Code section 65358 limits the number of times per year that the County may amend any mandatory element of its General Plan. According to that statute, with limited exceptions, "no mandatory element of a general plan shall be amended more frequently than four times during any calendar year." Gov't. Code § 65358(b). This section allows that "[e]ach amendment may include more than one change to the general

plan,” *id.*, but the Supreme Court has concluded that the purpose of this limitation “was presumably to curb an excessively ad hoc planning purpose.” *DeVita v. Cty. of Napa* (1995) 9 Cal.4th 763, 790.

San Diego County has stretched this rule to its breaking point, bundling together numerous general plan amendments for multiple large-scale development projects for review and approval at the same time. According to a July 10, 2018, letter from Supervisor Dianne Jacob, the general plan amendments slated for bundling this calendar year will authorize the development of approximately 13,000 new residential units by private, for-profit developers and landowners for the 7 projects and the PSRs. This number is more than *twenty times* the total number of new residential units permitted in the County in 2016. *See* County of San Diego 2016 General Plan Annual Progress Report, Attach. 1, page 4 (August 3, 2011).

These amendments are not designed to deal with unforeseen circumstances or correct inadvertent errors in the original general plan. Nor are they needed to address the state’s housing crisis; as noted above, the County’s own Housing Element states there is ample land already designated for development to accommodate the County’s RHNA of 22,412 residential units. Rather, these amendments are simply ad hoc changes catering to the special requests of developers, each of whom wants the County to make major changes to the sound planning policies in the original general plan, but wants it done by the end of the year.

Adopting numerous individual exceptions to a general plan’s policies is precisely the kind of “ad hoc planning” Section 65358(b) was intended to prevent. If the County is always willing to change the rules of development anytime a developer wants to develop something that is not allowed, the general plan is no longer the “constitution for all future development” in the County, but rather a temporary placeholder for the ultimate whims of developers and landowners. *See Orange Citizens for Parks and Recreation v. Superior Court* (2016) 2 Cal.5th 141, 152 (citation omitted). Such a meaningless document does not satisfy the longstanding legislative requirement that all cities and counties must prepare “comprehensive, long-term general plan[s] for the[ir] physical development.” Govt. Code § 65300.

Section 65358(b) does not limit the number of changes a single General Plan amendment can make. But if the County intends to make multiple changes as a single General Plan amendment, it must fully disclose to the public the environmental impacts of the combined project. A fundamental premise of CEQA is that a lead agency must consider the environmental impacts of the whole of the action being approved, not individual permits or segmented pieces. CEQA Guidelines § 15378(a) (defining

“project”). Here, the “whole of the action” is the approval of the bundled projects that are being considered as one plan amendment.

Yet the County did not treat the projects in this way. Rather than preparing a single EIR describing the bundled amendments as the project and analyzing the combined impacts of that project, it prepared separate EIRs for each separate project in the bundle.

As a result, neither the public nor Planning Commission were ever provided a full picture of the true environmental impacts of these bundled projects. Instead of providing an accurate description of the bundled project and analyzing the impacts of that project, each development was segmented into a separate environmental review document. None of these documents explained the significant impacts—including land use and other impacts—that will result from the County making numerous amendments to the general plan at the same time. Instead, the significant impacts of the bundled project were broken down into the lesser impacts of each project, depriving the public of an opportunity to understand or comment on the true severity of those impacts. Nor were these impacts discussed in the cumulative impacts sections for each individual development; as discussed above, the cumulative project lists for many of the EIRs did not even include the projects with which they were later bundled. By proceeding with the approval of “bundles” as single amendment, the County will have improperly segmented environmental review of that amendment in violation of CEQA.

IV. THE COUNTY CONTINUES TO VIOLATE CEQA BY SYSTEMATICALLY DESTROYING DOCUMENTS NECESSARY FOR ADEQUATE JUDICIAL REVIEW.

Public Resources Code section 21167.6(e), which outlines the documents that must be included in the record of proceedings for any CEQA case, lists “all internal agency communications, including staff notes and memoranda related to the project or to compliance with [CEQA]” and “all written evidence or correspondence submitting to, or transferred from, the respondent public agency with respect to compliance with this division or with respect to the project.” However, the County recently adopted an “auto-deletion” policy, which automatically deletes emails on County servers, unless County employees take affirmative steps to archive email messages. This auto-deletion policy threatens to undermine the County’s ability to produce or certify administrative records for CEQA litigation on any of the projects requiring a General Plan Amendment discussed above, including Harmony Village Grove South, Otay 250, Valiano, Newland Sierra, Property Specific Requests GPA, Lilac Hills Ranch, Warner Springs, Otay Ranch Village 13, and Otay Village 14.

On behalf of our client Endangered Habitat League, this firm has submitted “litigation hold” request for certain projects. This firm has also submitted such requests on behalf of other clients in other matters. These requests demanded that the County preserve all records, including emails, concerning the cited projects. However, we recently became aware that these litigation hold letters may not be effective in preserving the CEQA record for these cases. In *Golden Door Properties, LLC v. County of San Diego* (San Diego Superior Court No. 37-2018-00030460-CU-TT-CTL), concerning preservation of County records for the Newland Sierra project, the County filed opposition papers indicating that (a) for projects without threatened litigation, only a limited category of “official records” are being retained; and (b) for projects with litigation holds, the only emails being retained are those either selected by certain County employees for retention or those that contain certain limited, non-public search terms. The Superior Court recently granted a temporary restraining order suspending the auto-deletion policy for County employees working on the Newland Sierra project, out of concern that the auto-deletion policy would interfere with the County’s compliance with CEQA.

The County must likewise suspend its auto-deletion policy for all employees working on the nine projects listed above and take affirmative steps to ensure preservation of all documents, including emails, necessary for a legally compliant CEQA administrative record. Without taking this step, the County will be unable to produce documents necessary for adequate judicial review. As the County acknowledged in its opposition papers, petitioners are entitled to a writ of mandate directing rescission of project approvals in this situation. *See Protect Our Water v. County of Merced*, 110 Cal.App.4th 362, 373 (2003) (“The consequences of providing a record to the courts that does not evidence the agency’s compliance with CEQA is severe—reversal of project approval.”).

In addition, to better understand the County’s current policies with respect to these nine projects, and any present need to seek judicial oversight of the County’s document retention policies, we request the following information:

- The projects currently subject to a litigation hold.
- The search terms the County is using to implement any alleged litigation hold.

In short, a general plan is supposed to govern where and how development occurs in a county. In San Diego, it appears these roles are reversed: development governs the general plan. The County must correct this error by declining to approve further general

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plan amendments for development that can, according to the County's own documents, be accommodated in areas already designated for new growth.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP

A handwritten signature in blue ink, appearing to read 'WJ White', with a long horizontal line extending to the right.

William J. White

Exhibit List

No.	Description
1.	Countywide Map: Major Residential Project Requiring General Plan Amendments
2.	Project Maps (with satellite imagery)
3.	Project Maps (with existing Regional Category designations)
4.	Final Supplement to the San Diego 2011 General Plan Update Program Environmental Impact Report for the Climate Action Plan, Chapter 8, Comments and Responses
5.	California Air Resources Board Annual Summary of 2016 Greenhouse Gas Emissions Data
6.	How Additional Is the Clean Development Mechanism? Analysis of the application of current tools and proposed alternatives, Institute of Applied Ecology, March, 2016.
7.	Carbon Credits Likely Worthless in Reducing Emissions, Study Says, Inside Climate News, April 19, 2017.
8.	California's 2017 Climate Change Scoping Plan
9.	Dr. J. Zicherman, Berkeley Engineering and Research Inc., December 20, 2017, Wildland Fire Report prepared in connection with the Safari Highlands Ranch EIR.
10.	Wildland Fire Report, Dr. Chris Lautenberger, REAX Engineering, April 12, 2018.
11.	<i>Fire history of the San Francisco East Bay region and implications for landscape patterns</i> , J. Keeley, International Journal of Wildland Fire, 2005.
12.	<i>Land Use Planning and Wildfire: Development Policies Influence Future Probability of Housing Loss</i> , Syphard AD, Bar Massada A, Butsic V, Keeley JE, 2013.
13.	<i>Human Influence on California Fire Regimes</i> , Syphard, A. D., V. C. Radeloff, J. E. Keeley, T. J. Hawbaker, M. K. Clayton, S. I. Stewart, and R. B. Hammer, Ecological Application, 2007.
14.	"Alarming failures left many in path of California wildfires vulnerable and without warning," Los Angeles Times, Dec. 29, 2017
15.	"Caught in the Firestorm." Wildland Urban Interface, FIRERESCUE, February 1, 2016.
16.	"Why California's fire season is off to the worst start in 10 years." San Jose Mercury News, July 10, 2018.
17.	"Record Heat in Southern California, and an Ominous Start to Wildfire Season." New York Times, July 7, 2018

18.	<i>The Response and Recovery of Animals and Plants to the 2003 and 2007 San Diego County Wildfires</i> , USGS Western Ecological Research Center
19.	<i>Wildfires and Air Pollution: the Hidden Health Hazards of Climate Change</i> , A. Kenward, D. Adams-Smith, and U. Raja, Climate Central (2013)
20.	<i>The Danger of Wildland Fire Smoke to Public Health</i> , EPA (2018)
21.	<i>Monitoring Health Effects of Wildfires Using the BioSense System, San Diego County, California, October 2007</i>
22.	Wildfire Threats in Ventura and San Diego Counties, Dec. 7, 2017
23.	San Diego Forward: The Regional Plan, Appendix J (Regional Growth Forecast)
24.	California's 2017 Climate Change Scoping Plan, CARB
25.	San Diego County Freeway VMT and San Diego County Daily Per Capita Freeway VMT
26.	San Diego County Cumulative Projects' EIR Excerpts
27.	San Diego Wildfire Map

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